

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

LARRY GAPEN,

Petitioner, : Case No. 3:08-cv-280

- vs -

District Judge Walter Herbert Rice
Magistrate Judge Michael R. Merz

DAVID BOBBY, Warden,

Respondent. :

ORDER REINSTATING STAY

On Petitioner's Motion (ECF No. 214), this Court temporarily lifted the stay of proceedings previously entered in this capital habeas corpus case to allow litigation of Petitioner's Motion to add claims under *Hurst v. Florida*, 577 U.S. ___, 136 S. Ct. 616 (2016)(Decision and Order, ECF No. 218). On August 15, 2017, Judge Rice overruled Petitioner's Objections to denial of his Motion to Amend (ECF No. 228).

The Court having completed the proceedings for which the stay was lifted, it is hereby ORDERED that the stay be reinstated. This case is hereby STAYED and all proceedings herein will be held in abeyance pending exhaustion of Gapen's previously unexhausted claims in the Ohio courts. Per the parties Joint Status Report of July 17, 2017 (ECF No. 227), the Court understand that Gapen's Motion for Leave to File Delayed Motion for New Trial is ripe for decision by The Honorable Mary Katherine Huffman of the Common Pleas Court of Montgomery County, Ohio. The parties' obligation to provide this Court with regular status

reports is continuing.

August 16, 2017.

s/ *Michael R. Merz*
United States Magistrate Judge

Copy: Judge Huffman